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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,013	05/06/2004	William H. Thompson III	BBRI / 02U	9636

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WOOD, HERRON & EVANS, LLP
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EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/840,013

Applicant(s)

THOMPSON ET AL. 

Examiner

Thomas Price

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7-13-2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07-13-2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michel U.S. 1,177,960.

Michel teaches a feather trimming which is structurally similar to the Applicant's claimed feather assembly for preventing birds from flying into a window. Michel teaches a length of line 2, and a plurality of feathers secured to said line at spaced locations. Michel does not specifically discuss the bright colors of the individual feathers, but does discuss on column 2, lines 81 and 82, that a variety of colors can be used. As a result, one of ordinary skill in the art at the time the invention was made realizes that any and all types of feathers can be used. And, one of ordinary skill knows that the feathers range in color from brightly colored to dull color shades. So, in regards to claim 1, to choose a bright colored feather would have been obvious to a person of ordinary skill in the art at the time the invention was made because it is considered to be an aesthetic factor as opposed to a patentably distinguishable factor. Regarding claim 2, Michel does not teach a nylon monofilament, however, the cord material of Michel could encompass a variety of materials. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use nylon monofilament for the cord

of Michel, because nylon monofilament is a widely regarded line or cord material, and is considered to be structurally equivalent to the undisclosed cord material of Michel. As for claims 3-5, the length of the line, feather spacing and feather size are considered to be an aesthetic factors to one of ordinary skill in the art at the time the invention was made in that it is directed more towards artistry than patentable distinction. Regarding claim 6, to provide additional coloring to the feathers lends itself to individual artistic choice and is thus deemed to be obvious.

Claims 7-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michel U.S. Patent 1,177,960 in view of Boston et al U.S. Patent 4,588,153. Michel does not teach hanging decorative trimmings from glass using suction cups. Boston et al teach hanging decorative trimmings from glass using suction cups positioned about the length and ends of a length of line. Further, opposite ends of the line are secured to the suction cup anchors, respectively. See the above mentioned discussion of the reference to Michel for the respective teachings. Regarding claim 7, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the line trimmings of Michel with suction cups, in view of the teachings of Boston et al, in order to decorate on a glass structure, whether it be the glass on an armoire or a window of a house. Regarding claims 14 and 15, the specific position of the combination Michel as modified by Boston et al with respect to the window is considered to be an artistic choice which does not rise to the level of patentable distinction. As for claims 16 and 17, given that suction cups over time will

slide due to the weight of the decorative line, the resultant decorative line will have sufficient slack to enable the feathers to sway in a breeze.

Prior Art of Record

The cited references are directed to devices which attach to glass either as a decoration or a way in order to limit glass breakage from flying birds.

Conclusion

Summary: Claims 1-17 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Monday through Friday from 8:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas Price

PRIMARY EXAMINER GAU:3643